

COUNTY OF SAN DIEGO
OFFICE OF ASSIGNED COUNSEL
ASSIGNED COUNSEL PROGRAM CONTRACT

NAME OF CONTRACT ATTORNEY: _____

(Please Print)

TELEPHONE: _____ MOBILE: _____ FAX: _____

EMAIL ADDRESS: _____ (REQUIRED)

CONTRACT ATTORNEY'S PRINCIPAL OFFICE NAME AND BUSINESS ADDRESS FOR RECEIPT OF BUSINESS AND LEGAL MAIL, AND LEGAL NOTICES:

Office Name: _____

Street Address: _____ City: _____ ZIP: _____

DATE OF ADMISSION TO PRACTICE LAW IN CA: _____ CA STATE BAR NO: _____

.....

This Contract is entered into by and between the Contract Attorney named above and County of San Diego ("County"), through the Office of Assigned Counsel ("OAC"), an ethically separate division of the Department of the Public Defender, and shall be effective on the latest date of execution of the Contract by either party.

RECITALS

- A. County is in need of services to assist the County with the provision of qualified legal representation for indigent clients entitled by law to court appointed legal services.
- B. It is necessary that County contract for these specialized legal services.
- C. The Contract Attorney named above has provided evidence to OAC indicating that said attorney possesses the specialized legal skills and expertise necessary to perform qualified legal services for such indigent clients, and desires to be appointed to the panel of attorneys who will provide defense counsel to indigent clients through the County OAC's Assigned Counsel Program.
- D. The OAC is an ethically separate division, pursuant to California law, within the County's Department of the Public Defender; and the mission of OAC is to provide defense counsel to indigent clients entitled by law to court appointed legal services who cannot be represented by the Public Defender's internally employed attorney staff due to conflicts of interest or other reasons.

- E. The County Board of Supervisors has authorized the Public Defender, acting through the Director of the OAC, to enter into contracts with qualified independent contract attorneys for the provision of defense counsel to such indigent clients.

AGREEMENT

1.0. Compensation: The County agrees to compensate the Contract Attorney pursuant to the provisions of this Contract, including any appendices, attachments, and exhibits incorporated by reference into this Contract, in consideration of the foregoing recitals and in exchange for the Contract Attorney's representations and agreements set forth below:

2.0. Contract Attorney Representations & Agreement: Contracting attorney, by executing this Contract, represents and agrees to the following:

- 2.1** I am an active member in good standing of the State Bar of California, I maintain my principal office for the practice of law in San Diego County, and the majority of my practice is in San Diego County. I will immediately inform the OAC if anything stated in this subsection 2.1 is no longer true.
- 2.2** I agree to comply with, and to perform the legal services pursuant to, the Rules and Regulations ("Rules & Regulations") of the OAC Court Appointed Assigned Counsel Program ("Program"), a copy of which is attached as Appendix A and incorporated into this Contract.
- 2.3** I agree to the classification of crimes and civil matters and the Contract Attorney eligibility standards for categories of crimes and civil matters as set forth in the Rules & Regulations and any attachments and exhibits to those Rules & Regulations, including but not limited to Attachments A and B, and as published on OAC's website (<http://www.sdcounty.ca.gov/oac>), agree to accept cases in the categories for which I am qualified, and agree to accept the fees set forth in the OAC Fee Documentation Schedule contained in Exhibit G of the OAC Rules & Regulations and published on OAC's website as compensation for the my legal services pursuant to this Contract.
- 2.4** I agree that the OAC program's Rules & Regulations and any attachments and exhibits thereto may be revised by OAC from time to time and that notice of the revisions may be provided to me as a panel attorney participating in the Program by email and by the publishing of the revisions on OAC's website; and I agree to be bound by those revisions on cases assigned to me after the effective date of such revisions of the Rules & Regulations.
- 2.5** I agree to indemnify and hold harmless the County of San Diego, the members of any OAC Advisory Screening Committee and/or other OAC advisory committee, and all County officers and employees, from any and all claims, demands, actions, liability, or loss which may arise, or be incurred because of any and all referrals, assignments, activities, and appointments resulting from participation in the Program, including but not limited to claims of legal malpractice and professional errors and omissions.
- 2.6** I agree to maintain professional liability insurance with limits of at least the amount required by the OAC program's Rules & Regulations, currently \$250,000/\$500,000, and shall notify the OAC thirty (30) days before any change in the coverage or status of the policy. I shall provide the OAC with

written documentation proving I have obtained and maintain such insurance coverage before I am assigned any cases by OAC.

- 2.7** I waive any and all claims against the County of San Diego, its officers and employees, and the members of any OAC Advisory Screening Committee and/or other advisory committee for any liability or loss arising out of the operation of the Program or of referrals, assignments, and appointments.
- 2.8** I understand and agree that appointment to the OAC panel is a matter of privilege and not a matter of right, and that the OAC Director may remove a panel member from the OAC panel at any time.
- 2.9** I understand and agree that it is a material requirement of this contract that I maintain an active and functioning business email account during the term of this contract and that I provide the address of that email account to OAC so OAC may use it to communicate with me via email messages as may be necessary under this Agreement. I further agree to regularly check that email account for messages and agree to submit communications such as Ancillary Service Requests to OAC in electronic format as attachments to email messages sent to the current preferred OAC email address of OAC@sdcounty.ca.gov or as may otherwise be directed by OAC's Rules & Regulations and OAC's website guidelines published at <http://www.sdcounty.ca.gov/oac> and the related pages of OAC's website, including the OAC Forms page at <http://www.sdcounty.ca.gov/oac/forms.html>.
- 2.10** I agree to notify the OAC Director within 10 days of:
- 2.10.1** actual notice from the State Bar of California or the disciplinary agency regulating attorneys in any state that a complaint has been filed against me;
 - 2.10.2** being arrested for or charged with a crime;
 - 2.10.3** a hearing on a "*Marsden* motion" filed against me, regardless of the outcome of the hearing, and provide OAC with a copy of the Court minute order for the hearing (excluding privileged information). Failure to provide notification may result in suspension from the OAC panel ("*Marsden* Motion" -- *See People v. Marsden*, 2 Cal.3d 118 (1970) [defendant has the right to have counsel discharged upon appropriate showing]); or
 - 2.10.4** any sanctions imposed on me by any Court.
- 2.11** I agree not to be retained by the defendant or anyone providing funds on the defendant's behalf on a case that has been assigned to me by OAC or by the predecessor agency, PCC, or to accept monies or gifts from the defendant or those acting on the defendant's behalf.
- 2.12** I agree not to be retained by defendant or anyone providing funds on the defendant's behalf for a separate case during the time that the OAC-assigned case is pending, or to accept monies or gifts from the defendant or those acting on the defendant's behalf. I may be retained on a subsequent case for the defendant once the OAC-assigned case has been completed.
- 2.13** I agree to not accept an OAC-assigned case for a defendant if the defendant initially consulted with or retained me for the same case, or if the defendant or those acting on his or her behalf is or are currently represented by me on other cases. I understand this provision is not intended to bar me from being assigned on a new OAC case, if a client I represented in the past on a previously assigned appointed case simply contacts me to inform me he or she now has a new case.

- 2.14 I agree to complete and submit all non-privileged reports/documents requested by the OAC Program regarding my performance on an OAC assigned case, including billing and documentation of tasks completed. All costs for providing the requested reports and documents will be borne by me, since OAC recommends that its panel attorneys maintain complete, current and updated documentation on all OAC-assigned cases.
- 2.15 I agree that failure to comply with or fulfill the requirements or agreements of any provision of this Contract shall constitute a material breach of the Contract and may result in termination of the Contract and suspension or removal from the Panel.

3. **General Provisions**

- 3.1 **Independent Contractor** -- Contract Attorney is, for all purposes of this Contract, an independent contractor; and neither Contract Attorney nor Contract Attorney's employees shall be deemed to be employees of County. Contract Attorney shall perform his or her obligations under this Contract according to Contract Attorney's own means and methods of work which shall be in the exclusive charge and under the control of Contract Attorney, and which shall not be subject to control or supervision by County except as to the results of the work. Neither Contract Attorney nor Contract Attorney's employees shall be entitled to any benefits to which County employees are entitled, including without limitation, overtime, retirement benefits, workers' compensation benefits, and injury leave.
- 3.2 **Subcontractors** -- Contract Attorney shall not engage the services of any subcontractor to perform any of Contract Attorney's duties under this Contract except as may be permitted in the OAC Program's Rules & Regulations.
- 3.3 **Fact Disputes** -- Except as may be otherwise provided in this Contract, any dispute concerning a question of fact arising hereunder shall be decided by the OAC Director who shall furnish such decision to the Contract Attorney in writing, which writing may be communicated via email. The decision of the OAC Director shall be final and conclusive unless it is subsequently determined by a court of competent jurisdiction to have been erroneous. Contract Attorney shall proceed diligently with the performance of this Contract pending any decision by OAC Director on a dispute.
- 3.4 **Audit and Inspection** -- County shall have the right to audit, inspect, and copy those books, records, and documents of Contract Attorney, and other data in the possession of Contract Attorney, which pertain directly to Contract Attorney's performance of his or her duties pursuant to this Contract. Upon prior written request therefore from County, Contract Attorney shall make such records available at County's offices, during regular business hours, for inspection, audit, or reproduction, until the expiration of three years from the date of final payment to Contract Attorney under this Contract, or, if this Contract is terminated, then such records shall be made available for County's inspection for (i) three years from the date of such termination, or (ii) until any litigation, appeal, or claim submitted to mediation or arbitration arising out of such termination shall have been finally adjudicated or settled, whichever is longer.
4. **Notices**. Notices to either party shall be in writing and may be personally delivered, delivered by conventional mail, or delivered by email. Notice to the OAC Director shall be delivered or mailed to the Director, Office of Assigned Counsel, at OAC's then current business office address as published by OAC on its website at <http://www.sdcounty.ca.gov> or sent via email addressed to OAC@sdcounty.ca.gov.

Notices to the Contract Attorney may be delivered or mailed to the Contract Attorney's business address provided above, to the Contract Attorney's email address provided above, or to the business address or email address most recently provided by the Contract Attorney to OAC pursuant to this agreement.

5. Severability. If any court of competent jurisdiction holds any term, provision, covenant, or condition of this Contract to be invalid, void, or otherwise unenforceable, to any extent, the remainder of this Contract shall not be affected thereby, and each term, provision, covenant, or condition of this Contract shall be valid and enforceable to the fullest extent permitted by law.

6. Governing Law. This Agreement shall be governed by the laws of the State of California.

FOR CONTRACT ATTORNEY:

Print Name

Signature

Date

FOR COUNTY OF SAN DIEGO:

Robert J. Stall, Jr.

Director, Office of Assigned Counsel

Signature

Date